

PLAINTIFFS EXHIBIT#1

Arrest #: 04-1867-AR
 Call #: 04-25085

#	OFFENSE (S)	A/C	STATE LAW
	LOCATION TYPE: Convenience Store SAMS FOOD STORE 515 HIGH ST HOLYOKE MA 01040 Zone: RA-1		
1	ROBBERY, ARMED & MASKED OCCURRED: 07/12/2004 0619 WEAPON/FORCED USED: Handgun	C	265 17
2	FIREARM, CARRY WITHOUT LICENSE CRIMINAL ACTIVITY: Using/Consuming WEAPON/FORCED USED: Handgun	C	269 10 (A)
3	FIREARM, AMMO WITHOUT FID CARD, POSSESS CRIMINAL ACTIVITY: Using/Consuming WEAPON/FORCED USED: Other	C	269 10/G

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	.38 SMITH WESSON SPECIAL CTG QUANTITY: 1 SERIAL #: D490506 DATE: 07/12/2004 OWNER: RIBEIRO, DAVID J	04-1639-PR VALUE: \$251.00	Suspected
2	6 BULLETS -/ 1 SILVER / 5 BRASS ROUNDS QUANTITY: 6 SERIAL #: NOT AVAIL DATE: 07/12/2004 OWNER: RIBEIRO, DAVID J	04-1640-PR VALUE: \$0.00	Suspected
3	309.00 US DOLLARS VARIOUS BILLS QUANTITY: 137 SERIAL #: NOT AVAIL DATE: 07/12/2004 RECOVERED: 137 OWNER: RIBEIRO, DAVID J	04-1641-PR VALUE: \$309.00	Recovered (Previously Stolen)
4	1 RED WITH WHITE BANDANA QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 07/12/2004 OWNER: RIBEIRO, DAVID J	04-1642-PR VALUE: \$5.00	Suspected
5	1 RED DOO RAG QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 07/12/2004 OWNER: RIBEIRO, DAVID J	04-1643-PR VALUE: \$5.00	Suspected
6	1 MIRANDA CARD SIGNED BY DAVID RIBEIRO QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 07/12/2004	04-1644-PR VALUE: \$0.00	Held for Safe Keeping

Ref: 04-1867-AR

On July 12th at approximately 0619hrs while assigned to car 361, we responded to Sams Food Store (515 High St.) for a 911 hang up. Dispatch informed us that they called the store back and the clerk stated he was just robbed. A description was given of a red masked man with a gun.

Officer Narey, Car 311 stated he has the suspect running down towards Worcester Place. We then made our way to the front of 17-19-21-23 Worcester Place where officer Narey stated he ran into the door way of this address. Officer Narey pointed to 21 Worcester Place. A code 1 was called (Radio silence) and officer Narey and myself entered the door way which had no first floor apartments. We withdrew our service weapons for safety and started our way up the stairs. Other officer were surrounding the building. We made our way to the stair way of the second floor landing and looked up to the third floor landing and saw a male wearing a red shirt and was trying to hide to the our left side of the stairway.

We then ordered the male to show us his hands and ordered him out into the open.

The male then walked out into the open with his hands out and he was ordered not to move. He started to walk down the stairs and I (Usher) holstered my weapon and went up to met him and handcuffed this male. This male, later known as David Ribeiro, was then given over to officer Morales and Briant. Myself and officer Morales then went to the top floor landing (3rd) and looked to the area where Mr. Ribeiro was hiding. In that area we noticed trash and a bike in the corner with a blue jacket hanging over that area. I then looked under the jacket and noticed a large amount of money thrown about. We then noticed a red bandana on the ground and a chrome colored handgun was wrapped inside the bandana. The evidence was taken into custody by me (Usher) and later placed into evidence.

Outside, Mr. Ribeiro, was transported to Sams Food Store by car 321(Morales) where he was positively ID'ed as the suspect who robbed the store by the victim (Syed Masood). The victim stated that he had a blue jacket on and officer Morales showed him the jacket we found on the third floor and he positively IDed that as the jacket he was wearing. I then showed the victim (Syed Masood) the hand gun and the bandana and he positively ID'ed them as the gun and the red mask used by the suspect.

He was then transported tot he station where he was booked and advised of his rights by Lt. Higgins. At the station evidence was tagged and placed into evidence by officer Usher.

Evidence as follows:

- 04-1639-pr (1 smith wesson 38 special) loaded at time of recovery
- 04-1640-pr (6 bullets -taken out of gun at station)
- 04-1641-pr (309.00 us dollars- 104- 1\$ bills/ 25- 5\$ bills/ 8- 10\$ bills)
- 04-1642-pr (1 red with white bandana)
- 04-1643-pr (1 red doo rag found by officer Briant)
- 04-1644-pr (1 miranda card signed by suspect)**
- 04-1645-pr (1 blue wind breaker jacket)

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

SUPERIOR COURT
DEPARTMENT OF THE
TRIAL COURT
CRIMINAL ACTION
NO. 04-0913-01 thru
04-0913-04

COMMONWEALTH

v.

DAVID RIBEIRO

RECEIPT of DISCOVERY

Attached please find Discovery pages numbered 018 thru 020 regarding the above mentioned matter.

THE COMMONWEALTH,

Karen Bell (er)
Karen Bell
Assistant District Attorney

Edward Fogarty, Esq.
Defense Attorney

December 21, 2004

Date

COPY

WARNING

1. "Before we ask you any questions, you must understand your rights."
2. "You have the right to remain silent."
3. "Anything you say can be used against you in court."
4. "You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning."
5. "If you cannot afford a lawyer, one will be appointed for you before questioning if you wish."

7/12/04 0630 hrs _____
(Date) (Time) (Signature)
[Signature] [Signature]
(Signature of witness) (Signature of Pol. Off)
242

Rev. Apr. 93

On 8-5-04 I completed processing the .38 caliber Smith and Wesson revolver and the six rounds of .38 caliber ammunition recovered by officers at 21 Worcester Place. I was not able to develop any fingerprints of value from that evidence.

Returned to evidence officer.

police reports to cover up their misconduct. Plaintiff was not mirandized nor did plaintiff sign miranda card.

please see exhibit#1

2) Police also fabricated reports to indicate that plaintiff was allowed to use telephone. This is another lie.

please see exhibit#2 Police claim a confirmed phone call was made by plaintiff, when in fact plaintiff was never allowed to use telephone. Defense attorney Austin Joyce claims that there are telephones in holding cells in police station. However, the police station only has collect telephones and plaintiff could not contact any family or attorney to notify them of my arraignment in court.

3) Defendant Paul Kelly may not have violated plaintiff's rights directly. However, Paul Kelly is an officer of the law and should have stepped forward if his colleagues are lying and fabricating police reports and framing an innocent person for a crime he did not commit.

4) Officer Donze (as plaintiff stated in his deposition hearing dated April 19, 2005 which attorney Austin Joyce did not submit and eliminated that part out of his exhibit-A) was the officer who violated plaintiff's civil rights, in regard to calling plaintiff a "fucking spic" and "people like you ruin our city" and then went on to threaten plaintiff after plaintiff refused to cooperate with officer Donze trying to forcibly put a mask on plaintiff to have the victim identify plaintiff in the

unnecessarily suggestive procedure that violates the plaintiff's right to due process and equal protection due to the fact that plaintiff never had a line up or photo array which would have been appropriate in a situation such as this one.